

SENATE AMENDMENTS

2nd Printing

By: Huberty

H.B. No. 3906

A BILL TO BE ENTITLED

AN ACT

relating to the administration of assessment instruments used to assess the performance of public school students.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 39.023, Education Code, is amended by amending Subsections (a-12), (a-13), (b-1), (c), and (c-3) and adding Subsections (a-14) and (c-7) to read as follows:

(a-12) An assessment instrument adopted or developed under Subsection (a) must be designed so that:

(1) if administered to students in grades three through five, 85 percent of students will be able to complete all ~~[the]~~ assessment instruments for that grade ~~[instrument]~~ within an aggregate period equal to the number of assessment instruments for that grade multiplied by 120 minutes; and

(2) if administered to students in grades six through eight, 85 percent of students will be able to complete all ~~[the]~~ assessment instruments for that grade ~~[instrument]~~ within an aggregate period equal to the number of assessment instruments for that grade multiplied by 180 minutes.

(a-13) The amount of time allowed for administration of an assessment instrument adopted or developed under Subsection (a) may not exceed eight hours, and the administration may occur in multiple parts over more than ~~[on only]~~ one day.

(a-14) Subsections (a-12) and (a-13) do not apply to a

1 classroom portfolio method used to assess writing performance.

2 (b-1) The agency, in conjunction with appropriate
3 interested persons, shall redevelop assessment instruments adopted
4 or developed under Subsection (b) for administration to
5 significantly cognitively disabled students in a manner consistent
6 with federal law. An assessment instrument under this subsection
7 may not require a teacher to prepare tasks or materials for a
8 student who will be administered such an assessment instrument. A
9 classroom portfolio method used to assess writing performance may
10 require a teacher to prepare tasks and materials [~~Assessment~~
11 ~~instruments adopted or developed under this subsection shall be~~
12 ~~administered not later than the 2014-2015 school year~~].

13 (c) The agency shall also adopt end-of-course assessment
14 instruments for secondary-level courses in Algebra I, biology,
15 English I, English II, and United States history. The Algebra I
16 end-of-course assessment instrument must be administered with the
17 aid of technology. The English I and English II end-of-course
18 assessment instruments must each assess essential knowledge and
19 skills in both reading and writing [~~in the same assessment~~
20 ~~instrument~~] and must provide a single score. A school district
21 shall comply with State Board of Education rules regarding
22 administration of the assessment instruments listed in this
23 subsection. If a student is in a special education program under
24 Subchapter A, Chapter 29, the student's admission, review, and
25 dismissal committee shall determine whether any allowable
26 modification is necessary in administering to the student an
27 assessment instrument required under this subsection. The State

1 Board of Education shall administer the assessment instruments. An
2 end-of-course assessment instrument may be administered in
3 multiple parts over more than one day ~~[The State Board of Education~~
4 ~~shall adopt a schedule for the administration of end-of-course~~
5 ~~assessment instruments that complies with the requirements of~~
6 ~~Subsection (c-3)]~~.

7 (c-3) Except as provided by Subsection (c-7), in ~~[In]~~
8 adopting a schedule for the administration of assessment
9 instruments under this section, the State Board of Education shall
10 require:

11 (1) assessment instruments administered under
12 Subsection (a) to be administered on a schedule so that the first
13 assessment instrument is administered at least two weeks later than
14 the date on which the first assessment instrument was administered
15 under Subsection (a) during the 2006-2007 school year; and

16 (2) the spring administration of end-of-course
17 assessment instruments under Subsection (c) to occur in each school
18 district not earlier than the first full week in May, except that
19 the spring administration of the end-of-course assessment
20 instruments in English I and English II must be permitted to occur
21 at an earlier date.

22 (c-7) Subsection (c-3) does not apply to a classroom
23 portfolio method used to assess writing performance if student
24 performance under that method is less than 50 percent of a student's
25 overall assessed performance in writing.

26 SECTION 2. As soon as practicable after the effective date
27 of this Act, the commissioner of education shall adopt rules

1 necessary to implement the changes in law made by this Act.

2 SECTION 3. This Act applies beginning with the 2019-2020
3 school year.

4 SECTION 4. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2019.

ADOPTED

MAY 22 2019

By: Larry Taylor

Larry Taylor
Secretary of the Senate

H.B. No. 3906

Substitute the following for __.B. No. ____:

By: Larry Taylor

C.S. __.B. No. ____

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the assessment of public school student development,
3 comprehension, and performance, including the administration of
4 assessment instruments for that purpose.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Effective September 1, 2021, Section 21.4551(c),
7 Education Code, is amended to read as follows:

8 (c) The commissioner by rule shall require a teacher to
9 attend a reading academy if the teacher provides instruction in
10 reading, mathematics, science, or social studies to students at the
11 sixth, seventh, or eighth grade level at a campus that fails to
12 satisfy any standard under Section 39.054(e) on the basis of
13 student performance on the language arts ~~[reading]~~ assessment
14 instrument administered under Section 39.023(a) to students in any
15 grade level at the campus.

16 SECTION 2. Section 28.006, Education Code, is amended by
17 amending Subsections (b), (c), (d), and (f) and adding Subsections
18 (b-1), (b-2), (c-2), (c-3), and (l) to read as follows:

19 (b) The commissioner shall adopt a list of reading
20 instruments that a school district may use to diagnose student
21 reading development and comprehension. For use in diagnosing the
22 reading development and comprehension of kindergarten students,
23 the commissioner shall adopt a ~~[include on the commissioner's list~~
24 ~~at least two]~~ multidimensional assessment tool that includes

~~[tools. A multidimensional assessment tool on the commissioner's list must either include]~~ a reading instrument and tests ~~[test]~~ at least three developmental skills, including literacy~~[, or test at least two developmental skills, other than literacy, and be administered in conjunction with a separate reading instrument that is on a list adopted under this subsection]~~. A multidimensional assessment tool administered as provided by this subsection is considered to be a reading instrument for purposes of this section. A district-level committee established under Subchapter F, Chapter 11, may adopt a list of reading instruments for use in the district in a grade level other than kindergarten in addition to the reading instruments on the commissioner's list. Each reading instrument adopted by the commissioner or a district-level committee must be based on scientific research concerning reading skills development and reading comprehension. A list of reading instruments adopted under this subsection must provide for diagnosing the reading development and comprehension of students participating in a program under Subchapter B, Chapter 29.

(b-1) The commissioner may approve an alternative reading instrument for use in diagnosing the reading development and comprehension of kindergarten students that complies with the requirements under Subsection (b).

(b-2) The agency may develop reading instruments for purposes of this section.

(c) Each school district shall administer, at the ~~[kindergarten and]~~ first and second grade levels, a reading instrument on the list adopted by the commissioner or by the

1 district-level committee. The district shall administer the
2 reading instrument in accordance with the commissioner's
3 recommendations under Subsection (a)(1).

4 (c-2) Each school district shall administer at the
5 kindergarten level a reading instrument adopted by the commissioner
6 under Subsection (b) or approved by the commissioner under
7 Subsection (b-1). The district shall administer the reading
8 instrument in accordance with the commissioner's recommendations
9 under Subsection (a)(1).

10 (c-3) The commissioner by rule shall determine the
11 performance on the reading instrument adopted under Subsection (b)
12 that indicates kindergarten readiness.

13 (d) The superintendent of each school district shall:

14 (1) report to the commissioner and the board of
15 trustees of the district the results of the reading instruments;

16 (2) not later than the 60th day after the date on which
17 a reading instrument was administered report, in writing, to a
18 student's parent or guardian the student's results on the [~~reading~~]
19 instrument; and

20 (3) using the school readiness certification system
21 provided to the school district in accordance with Section
22 29.161(e), report electronically each student's raw score on the
23 reading instrument to the agency for use in the school readiness
24 certification system.

25 (f) The agency shall ensure at least one reading instrument
26 for each grade level for which a reading instrument is required to
27 be administered under this section is available to school districts

1 at no cost. ~~[This section may be implemented only if funds are~~
2 ~~appropriated for administering the reading instruments. Funds,~~
3 ~~other than local funds, may be used to pay the cost of administering~~
4 ~~a reading instrument only if the instrument is on the list adopted~~
5 ~~by the commissioner.]~~

6 (1) The commissioner may adopt rules as necessary to
7 implement this section. Section 2001.0045, Government Code, does
8 not apply to rules adopted under this subsection.

9 SECTION 3. Effective September 1, 2021, Section
10 28.006(c-1), Education Code, is amended to read as follows:

11 (c-1) Each school district shall administer at the
12 beginning of the seventh grade a reading instrument adopted by the
13 commissioner to each student whose performance on the assessment
14 instrument in language arts ~~[reading]~~ administered under Section
15 39.023(a) to the student in grade six did not demonstrate reading
16 proficiency, as determined by the commissioner. The district shall
17 administer the reading instrument in accordance with the
18 commissioner's recommendations under Subsection (a)(1).

19 SECTION 4. Effective September 1, 2021, Sections 28.0211(a)
20 and (c), Education Code, are amended to read as follows:

21 (a) Except as provided by Subsection (b) or (e), a student
22 may not be promoted to:

23 (1) the sixth grade program to which the student would
24 otherwise be assigned if the student does not perform
25 satisfactorily on the fifth grade mathematics and language arts
26 ~~[reading]~~ assessment instruments under Section 39.023; or

27 (2) the ninth grade program to which the student would

1 otherwise be assigned if the student does not perform
2 satisfactorily on the eighth grade mathematics and language arts
3 [~~reading~~] assessment instruments under Section 39.023.

4 (c) Each time a student fails to perform satisfactorily on
5 an assessment instrument specified under Subsection (a), the school
6 district in which the student attends school shall provide to the
7 student accelerated instruction in the applicable subject area,
8 including reading instruction for a student who fails to perform
9 satisfactorily on a language arts [~~reading~~] assessment instrument.
10 After a student fails to perform satisfactorily on an assessment
11 instrument a second time, a grade placement committee shall be
12 established to prescribe the accelerated instruction the district
13 shall provide to the student before the student is administered the
14 assessment instrument the third time. The grade placement
15 committee shall be composed of the principal or the principal's
16 designee, the student's parent or guardian, and the teacher of the
17 subject of an assessment instrument on which the student failed to
18 perform satisfactorily. The district shall notify the parent or
19 guardian of the time and place for convening the grade placement
20 committee and the purpose of the committee. An accelerated
21 instruction group administered by a school district under this
22 section may not have a ratio of more than 10 students for each
23 teacher.

24 SECTION 5. Effective September 1, 2021, Section 29.056(g),
25 Education Code, is amended to read as follows:

26 (g) A district may transfer a student of limited English
27 proficiency out of a bilingual education or special language

1 program for the first time or a subsequent time if the student is
2 able to participate equally in a regular all-English instructional
3 program as determined by:

4 (1) agency-approved tests administered at the end of
5 each school year to determine the extent to which the student has
6 developed oral and written language proficiency and specific
7 language skills in English;

8 (2) satisfactory performance on the language arts
9 ~~[reading]~~ assessment instrument under Section 39.023(a) or an
10 English language arts assessment instrument under Section
11 39.023(c), as applicable, with the assessment instrument
12 administered in English, or, if the student is enrolled in the first
13 or second grade, an achievement score at or above the 40th
14 percentile in the reading and language arts sections of an English
15 standardized test approved by the agency; and

16 (3) agency-approved criterion-referenced tests and
17 the results of a subjective teacher evaluation.

18 SECTION 6. Section 29.1543, Education Code, is amended to
19 read as follows:

20 Sec. 29.1543. EARLY EDUCATION REPORTS. The agency shall
21 produce and make available to the public on the agency's Internet
22 website annual district and campus-level reports containing
23 information from the previous school year on early education in
24 school districts and open-enrollment charter schools. A report
25 under this section must contain:

26 (1) the information required by Section 29.1532(c) to
27 be reported through the Public Education Information Management

1 System (PEIMS);

2 (2) a description of the diagnostic reading
3 instruments administered in accordance with Section 28.006(c) or
4 (c-2);

5 (3) the number of students who were administered a
6 diagnostic reading instrument administered in accordance with
7 Section 28.006(c) or (c-2);

8 (4) the number of students whose scores from a
9 diagnostic reading instrument administered in accordance with
10 Section 28.006(c) or (c-2) indicate reading proficiency; ~~and~~

11 (5) the number of kindergarten students who were
12 enrolled in a prekindergarten program in the previous school year
13 in the same district or school as the district or school in which
14 the student attends kindergarten;

15 (6) the number and percentage of students who perform
16 satisfactorily on the third grade reading or mathematics assessment
17 instrument administered under Section 39.023, disaggregated by
18 whether the student was eligible for free prekindergarten under
19 Section 29.153;

20 (7) the number of students described by Subdivision
21 (6) who attended kindergarten in the district, disaggregated by:

22 (A) whether the student met the kindergarten
23 readiness standard on the reading instrument adopted under Section
24 28.006;

25 (B) whether the student attended prekindergarten
26 in the district; and

27 (C) the type of prekindergarten the student

1 attended, if applicable; and

2 (8) the information described by Subdivisions (6) and
3 (7) disaggregated by whether the student is educationally
4 disadvantaged.

5 SECTION 7. Effective September 1, 2021, Section 29.1543,
6 Education Code, is amended to read as follows:

7 Sec. 29.1543. EARLY EDUCATION REPORTS. The agency shall
8 produce and make available to the public on the agency's Internet
9 website annual district and campus-level reports containing
10 information from the previous school year on early education in
11 school districts and open-enrollment charter schools. A report
12 under this section must contain:

13 (1) the information required by Section 29.1532(c) to
14 be reported through the Public Education Information Management
15 System (PEIMS);

16 (2) a description of the diagnostic reading
17 instruments administered in accordance with Section 28.006(c) or
18 (c-2);

19 (3) the number of students who were administered a
20 diagnostic reading instrument administered in accordance with
21 Section 28.006(c) or (c-2);

22 (4) the number of students whose scores from a
23 diagnostic reading instrument administered in accordance with
24 Section 28.006(c) or (c-2) indicate reading proficiency; ~~and~~

25 (5) the number of kindergarten students who were
26 enrolled in a prekindergarten program in the previous school year
27 in the same district or school as the district or school in which

1 the student attends kindergarten;

2 (6) the number and percentage of students who perform
3 satisfactorily on the third grade language arts or mathematics
4 assessment instrument administered under Section 39.023,
5 disaggregated by whether the student was eligible for free
6 prekindergarten under Section 29.153;

7 (7) the number of students described by Subdivision
8 (6) who attended kindergarten in the district, disaggregated by:

9 (A) whether the student met the kindergarten
10 readiness standard on the reading instrument adopted under Section
11 28.006;

12 (B) whether the student attended prekindergarten
13 in the district; and

14 (C) the type of prekindergarten the student
15 attended, if applicable; and

16 (8) the information described by Subdivisions (6) and
17 (7) disaggregated by whether the student is educationally
18 disadvantaged.

19 SECTION 8. Section 39.022, Education Code, is amended to
20 read as follows:

21 Sec. 39.022. ASSESSMENT PROGRAM. The commissioner, after
22 providing for a public hearing in coordination with the State Board
23 of Education, by rule shall create and implement a statewide
24 assessment program that is based on the essential knowledge and
25 skills adopted by the State Board of Education under Subchapter A,
26 Chapter 28, [~~knowledge- and skills-based~~] to ensure school
27 accountability for student achievement that achieves the goals

1 provided under Section 4.002. After adopting rules under this
2 section, the commissioner [~~State Board of Education~~] shall consider
3 the importance of maintaining stability in the statewide assessment
4 program when adopting any subsequent modification of the rules.

5 SECTION 9. Effective September 1, 2021, Section 39.023,
6 Education Code, is amended by amending Subsection (a) and adding
7 Subsection (a-4) to read as follows:

8 (a) The agency shall adopt or develop appropriate
9 criterion-referenced assessment instruments designed to assess
10 essential knowledge and skills in language arts [~~reading, writing~~],
11 mathematics, social studies, and science. Except as provided by
12 Subsection (a-2), all students, other than students assessed under
13 Subsection (b) or (1) or exempted under Section 39.027, shall be
14 assessed in:

15 (1) mathematics, annually in grades three through
16 [~~seven without the aid of technology and in grade~~] eight [~~with the~~
17 ~~aid of technology on any assessment instrument that includes~~
18 ~~algebra~~];

19 (2) language arts, including reading and writing,
20 annually in grades three through eight;

21 (3) [~~writing, including spelling and grammar, in~~
22 ~~grades four and seven~~];

23 [~~4~~] social studies, in grade eight;

24 (4) [~~5~~] science, in grades five and eight; and

25 (5) [~~6~~] any other subject and grade required by
26 federal law.

27 (a-4) For purposes of Subsection (a)(1), the commissioner

1 by rule may designate sections of a mathematics assessment
2 instrument for a grade level that:

3 (1) may be completed with the aid of technology; and

4 (2) must be completed without the aid of technology.

5 SECTION 10. Section 39.023, Education Code, is amended by
6 amending Subsections (a-12), (a-13), (b-1), (c), and (c-3) and
7 adding Subsections (a-14), (a-15), (c-7), (c-8), and (o) to read as
8 follows:

9 (a-12) Each ~~[An]~~ assessment instrument adopted or developed
10 under Subsection (a) must be designed so that:

11 (1) if administered to students in grades three
12 through five, 85 percent of students will be able to complete all
13 ~~[the]~~ assessment instruments for that grade ~~[instrument]~~ within an
14 aggregate period equal to the number of assessment instruments for
15 that grade multiplied by 120 minutes; and

16 (2) if administered to students in grades six through
17 eight, 85 percent of students will be able to complete all ~~[the]~~
18 assessment instruments for that grade ~~[instrument]~~ within an
19 aggregate period equal to the number of assessment instruments for
20 that grade multiplied by 180 minutes.

21 (a-13) The amount of time allowed for administration of an
22 assessment instrument adopted or developed under Subsection (a) may
23 not exceed eight hours, and the administration may occur in
24 multiple parts over more than ~~[on only]~~ one day.

25 (a-14) Subsections (a-12) and (a-13) do not apply to the
26 administration of assessment instruments for a grade level if the
27 time restriction imposed would result in a determination by the

1 commissioner that an assessment instrument is no longer valid and
2 reliable.

3 (a-15) Subsections (a-12) and (a-13) do not apply to a
4 classroom portfolio method used to assess writing performance.

5 (b-1) The agency, in conjunction with appropriate
6 interested persons, shall redevelop assessment instruments adopted
7 or developed under Subsection (b) for administration to
8 significantly cognitively disabled students in a manner consistent
9 with federal law. An assessment instrument under this subsection
10 may not require a teacher to prepare tasks or materials for a
11 student who will be administered such an assessment instrument. A
12 classroom portfolio method used to assess writing performance may
13 require a teacher to prepare tasks and materials [Assessment
14 ~~instruments adopted or developed under this subsection shall be~~
15 ~~administered not later than the 2014-2015 school year~~].

16 (c) The agency shall also adopt end-of-course assessment
17 instruments for secondary-level courses in Algebra I, biology,
18 English I, English II, and United States history. The Algebra I
19 end-of-course assessment instrument must be administered with the
20 aid of technology, but may include one or more parts that prohibit
21 the use of technology. The English I and English II end-of-course
22 assessment instruments must each assess essential knowledge and
23 skills in both reading and writing [~~in the same assessment~~
24 ~~instrument~~] and must provide a single score. A school district
25 shall comply with commissioner [~~State Board of Education~~] rules
26 regarding administration of the assessment instruments listed in
27 this subsection. If a student is in a special education program

1 under Subchapter A, Chapter 29, the student's admission, review,
2 and dismissal committee shall determine whether any allowable
3 modification is necessary in administering to the student an
4 assessment instrument required under this subsection. The
5 commissioner ~~[State Board of Education]~~ shall administer the
6 assessment instruments. ~~[The State Board of Education shall adopt~~
7 ~~a schedule for the administration of end-of-course assessment~~
8 ~~instruments that complies with the requirements of Subsection~~
9 ~~(c-3).]~~

10 (c-3) Except as provided by Subsection (c-7), in ~~[In]~~
11 adopting a schedule for the administration of assessment
12 instruments under this section, the commissioner ~~[State Board of~~
13 ~~Education]~~ shall ensure that ~~[require]~~

14 ~~[(1)]~~ assessment instruments administered under
15 Subsection (a) or (c) are not ~~[to be]~~ administered on the first
16 instructional day of a week ~~[a schedule so that the first assessment~~
17 ~~instrument is administered at least two weeks later than the date on~~
18 ~~which the first assessment instrument was administered under~~
19 ~~Subsection (a) during the 2006-2007 school year, and~~

20 ~~[(2) the spring administration of end-of-course~~
21 ~~assessment instruments under Subsection (c) to occur in each school~~
22 ~~district not earlier than the first full week in May, except that~~
23 ~~the spring administration of the end-of-course assessment~~
24 ~~instruments in English I and English II must be permitted to occur~~
25 ~~at an earlier date].~~

26 (c-7) Subsection (c-3) does not apply to a classroom
27 portfolio method used to assess writing performance if student

1 performance under that method is less than 50 percent of a student's
2 overall assessed performance in writing.

3 (c-8) Beginning with the 2022-2023 school year, an
4 assessment instrument developed under Subsection (a) or (c) may not
5 present more than 75 percent of the questions in a multiple choice
6 format.

7 (o) The agency shall adopt or develop optional interim
8 assessment instruments for each subject or course for each grade
9 level subject to assessment under this section. A school district
10 may not be required to administer interim assessment instruments
11 adopted or developed under this subsection. An interim assessment
12 instrument:

13 (1) must be:

14 (A) predictive of the assessment instrument for
15 the applicable subject or course for that grade level required
16 under this section; and

17 (B) administered electronically; and

18 (2) may not be used for accountability purposes.

19 SECTION 11. Subchapter B, Chapter 39, Education Code, is
20 amended by adding Section 39.02302 to read as follows:

21 Sec. 39.02302. ADVISORY COMMITTEES FOR ASSESSMENT
22 INSTRUMENTS. (a) The commissioner shall appoint a technical
23 advisory committee to advise the commissioner and the agency
24 regarding the development of valid and reliable assessment
25 instruments for purposes of this chapter. The members of the
26 committee must be experts on educational assessments and
27 psychometrics.

1 (b) The commissioner shall appoint an educator advisory
2 committee to advise the commissioner and the agency regarding the
3 development of academically appropriate assessment instruments for
4 purposes of this chapter. The members of the committee must include
5 experts in curriculum and instruction.

6 (c) The agency may compensate a member of the technical or
7 educator advisory committee or reimburse the member for expenses
8 incurred in the performance of duties related to the member's
9 service on the committee.

10 (d) The selection of or payment to a member of the technical
11 or educator advisory committee is not subject to Chapter 2110 or
12 2254, Government Code.

13 SECTION 12. Section 39.0234, Education Code, is amended to
14 read as follows:

15 Sec. 39.0234. ELECTRONIC ADMINISTRATION OF ASSESSMENT
16 INSTRUMENTS [BY COMPUTER]. (a) The agency shall ensure that
17 assessment instruments required under Section 39.023 are capable of
18 being administered electronically [by computer].

19 (b) A school district shall administer each assessment
20 instrument required under Section 39.023 electronically unless the
21 district receives a waiver from the commissioner. This subsection
22 does not apply to the administration of an assessment instrument to
23 a student who requires accommodations in the administration of the
24 assessment instrument that are not available if administered
25 electronically.

26 (c) Except as provided by Section 39.02341, a school
27 district must comply with Subsection (b) beginning with the

1 2022-2023 school year. This subsection expires September 1, 2023.
2 ~~[The commissioner may not require a school district or~~
3 ~~open-enrollment charter school to administer an assessment~~
4 ~~instrument by computer.]~~

5 SECTION 13. Subchapter B, Chapter 39, Education Code, is
6 amended by adding Sections 39.02341, 39.0236, and 39.0237 to read
7 as follows:

8 Sec. 39.02341. TRANSITION TO ELECTRONIC ADMINISTRATION OF
9 ASSESSMENT INSTRUMENTS. (a) The agency shall develop a transition
10 plan to administer all assessment instruments required under
11 Section 39.023 electronically beginning not later than the
12 2022-2023 school year.

13 (b) As part of the transition plan, the agency may provide
14 results on an assessment instrument required under Section 39.023
15 on an accelerated schedule to school districts that administer the
16 assessment instrument electronically. For purposes of this
17 subsection, the commissioner by rule may require the results on an
18 assessment instrument administered electronically to be reported
19 to the district as soon as practicable after administration.

20 (c) As part of the transition plan, the commissioner may
21 require a school district to comply with Section 39.0234(b) before
22 the 2022-2023 school year.

23 (d) Not later than December 1, 2020, the agency shall submit
24 to the governor, the lieutenant governor, and the members of the
25 legislature a report on the progress of transitioning to electronic
26 administration of all assessment instruments required under
27 Section 39.023. The report must include:

1 (1) information from school districts assessing the
2 needs of those districts in transitioning to electronic
3 administration;

4 (2) any recommended changes to state law to assist in
5 the transition; and

6 (3) any recommended adjustments to the timeline for
7 statewide implementation of electronic administration.

8 (e) Not later than December 1, 2022, the agency shall submit
9 to the governor, the lieutenant governor, and the members of the
10 legislature a report on the anticipated impact to school districts
11 of the implementation of electronic administration of all
12 assessment instruments required under Section 39.023.

13 (f) This section expires September 1, 2023.

14 Sec. 39.0236. INTEGRATED FORMATIVE ASSESSMENT PILOT
15 PROGRAM. (a) The agency shall establish a pilot program in which
16 participating school districts administer to students integrated
17 formative assessment instruments for subjects or courses for a
18 grade level subject to assessment under Section 28.006 or 39.023.

19 (b) A school district may elect to participate in the pilot
20 program.

21 (c) A school district's participation in the pilot program
22 does not affect the district's obligations regarding the
23 administration of assessment instruments required under Section
24 39.023.

25 (d) Not later than December 1 of each even-numbered year,
26 the agency shall submit to the governor, the lieutenant governor,
27 and the members of the legislature a report on the pilot program

1 that includes:

2 (1) an analysis of whether the administration of
3 integrated formative assessment instruments under the pilot
4 program provided any improvement in instructional support during
5 the preceding two school years; and

6 (2) a determination of the feasibility of replacing
7 the assessment instruments required under Section 39.023 with
8 integrated formative assessment instruments.

9 Sec. 39.0237. CONSIDERATION OF PREKINDERGARTEN ASSESSMENT
10 INSTRUMENTS PROHIBITED. Performance on an assessment instrument
11 administered to students in prekindergarten may not be considered
12 for any purpose under this chapter or Chapter 39A.

13 SECTION 14. Section 39.0241(a), Education Code, is amended
14 to read as follows:

15 (a) The commissioner shall determine the level of
16 performance considered to be satisfactory on the assessment
17 instruments, including:

18 (1) an approaches grade level performance standard in
19 the applicable subject or course that indicates that a student is
20 likely to succeed in the subject for the subsequent grade level or
21 in the subsequent course with targeted intervention;

22 (2) a meets grade level performance standard in the
23 applicable subject or course that indicates that a student has a
24 high likelihood of success in the subject for the subsequent grade
25 level or in the subsequent course but may still need short-term,
26 targeted intervention; and

27 (3) a masters grade level performance standard in the

1 applicable subject or course that indicates that a student is
2 expected to succeed in the subject for the subsequent grade level or
3 in the subsequent course with little or no academic intervention.

4 SECTION 15. Section 39.026, Education Code, is amended to
5 read as follows:

6 Sec. 39.026. LOCAL OPTION. In addition to the assessment
7 instruments adopted by the agency [~~and administered by the State~~
8 ~~Board of Education~~], a school district may adopt and administer
9 criterion-referenced or norm-referenced assessment instruments, or
10 both, at any grade level. A norm-referenced assessment instrument
11 adopted under this section must be economical, nationally
12 recognized, and state-approved.

13 SECTION 16. Sections 39.0261(a), (e), and (f), Education
14 Code, are amended to read as follows:

15 (a) In addition to the assessment instruments otherwise
16 authorized or required by this subchapter:

17 (1) each school year and at state cost, a school
18 district may administer to students in the spring of the eighth
19 grade an established, valid, reliable, and nationally
20 norm-referenced preliminary college preparation assessment
21 instrument for the purpose of diagnosing the academic strengths and
22 deficiencies of students before entrance into high school;

23 (2) each school year and at state cost, a school
24 district may administer to students in the 10th grade an
25 established, valid, reliable, and nationally norm-referenced
26 preliminary college preparation assessment instrument for the
27 purpose of measuring a student's progress toward readiness for

1 college and the workplace; and

2 (3) high school students in the spring of the 11th
3 grade or during the 12th grade may select and take once, at state
4 cost:

5 (A) ~~[7]~~ one of the valid, reliable, and
6 nationally norm-referenced assessment instruments used by colleges
7 and universities as part of their undergraduate admissions
8 processes; or

9 (B) the assessment instrument designated by the
10 Texas Higher Education Coordinating Board under Section 51.334.

11 (e) Subsection (a)(3) does not prohibit a high school
12 student ~~[in the spring of the 11th grade or during the 12th grade]~~
13 from selecting and taking, at the student's own expense, an
14 assessment instrument described by that subdivision ~~[one of the~~
15 ~~valid, reliable, and nationally norm-referenced assessment~~
16 ~~instruments used by colleges and universities as part of their~~
17 ~~undergraduate admissions processes more than once]~~.

18 (f) The provisions of this section regarding assessment
19 instruments administered under Subsection (a)(1) or (2) apply only
20 if the legislature appropriates funds for those purposes ~~[of this~~
21 ~~section]~~.

22 SECTION 17. Subchapter Z, Chapter 39A, Education Code, is
23 amended by adding Section 39A.907 to read as follows:

24 Sec. 39A.907. ASSESSMENT INSTRUMENT STUDY. (a) The
25 commissioner shall contract for a study to determine whether, for
26 each applicable grade level, each assessment instrument
27 administered under Section 39.023(a) during the 2018-2019 school

1 year or scheduled to be administered during the 2019-2020 school
2 year is written at the appropriate reading level for students in
3 that grade level and includes only passages written at a reading
4 level not higher than the grade level at which the assessment
5 instrument is administered.

6 (b) In contracting for the study, the commissioner shall use
7 a competitive process to select an independent entity to conduct
8 the study that is not an entity that develops or otherwise reviews
9 assessment instruments under Chapter 39.

10 (c) Chapter 2254, Government Code, does not apply to a
11 contract procured under this section.

12 (d) Not later than December 1, 2019, the commissioner shall
13 submit a report to the governor, the lieutenant governor, the
14 legislature, and the presiding officer of each legislative standing
15 committee with jurisdiction over primary and secondary education
16 that includes the results of the study.

17 (e) This section expires September 1, 2021.

18 SECTION 18. Section 21.410, Education Code, is repealed.

19 SECTION 19. Unless this Act provides for an effective date
20 later than September 1, 2019, this Act applies beginning with the
21 2019-2020 school year.

22 SECTION 20. Except as otherwise provided by this Act:

23 (1) this Act takes effect immediately if this Act
24 receives a vote of two-thirds of all the members elected to each
25 house, as provided by Section 39, Article III, Texas Constitution;
26 and

27 (2) if this Act does not receive the vote necessary for

1 immediate effect, this Act takes effect September 1, 2019.

ADOPTED

✓✓
MAY 22 2019

FLOOR AMENDMENT NO. 1

Letay Spaul
Secretary of the Senate

BY:

Larry Taylor

1 Amend C.S.H.B. No. 3906 (senate committee printing) in
2 SECTION 10 of the bill, in amended Section 39.023(c), Education
3 Code (page 6, line 12), between "assessment instruments." and "[The
4 ~~State Board of Education~~", insert "An end-of-course assessment
5 instrument may be administered in multiple parts over more than
6 one day.".

ADOPTED

VV
MAY 22 2019

FLOOR AMENDMENT NO. 2

Leta Taylor
Secretary of the Senate

BY: Taylor

1 Amend H.B. 3906 (senate committee report) by adding the
2 following appropriately numbered SECTIONS to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Subchapter Z, Chapter 25, Education Code, is
5 amended by adding Section 25.904 to read as follows:

6 Sec. 25.904. USE OF CALCULATOR APPLICATION IN PLACE OF
7 GRAPHING CALCULATOR. (a) A school district shall permit a student
8 enrolled in a course that requires the student to use a graphing
9 calculator to use a calculator application on a computing device,
10 including a personal, laptop, or tablet computer, that provides the
11 same functionality, unless the district makes available to the
12 student a graphing calculator at no cost to the student.

13 (b) A school district may adopt policies related to student
14 use of a computing device under this section.

15 (c) To the extent this section conflicts with Section
16 37.082, this section prevails.

17 SECTION _____. The Texas Education Agency is required to
18 implement a provision of Section 25.904, Education Code, as added
19 by this Act only if the legislature appropriates money specifically
20 for that purpose. If the legislature does not appropriate money
21 specifically for that purpose, the Texas Education Agency may, but
22 is not required to, implement a provision of that section using
23 other appropriations available for that purpose.

FLOOR AMENDMENT NO.

3

BY:

Larry Taylor

1 Amend C.S.H.B. 3906 (senate committee printing) by adding the
2 following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION __. The Texas Education Agency may use foundation
5 school program funds appropriated to the agency to implement a
6 provision of this Act.

ADOPTED
✓✓

MAY 22 2019

Leta Spaul
Secretary of the Senate

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 23, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB3906** by Huberty (Relating to the assessment of public school student development, comprehension, and performance, including the administration of assessment instruments for that purpose.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3906, As Passed 2nd House: a negative impact of (\$99,814,195) through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill specifies that the Texas Education Agency is only required to implement a provision of Education Code Section 25.094 if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the agency may, but is not required to, implement a provision of that section using other appropriations available for that purpose.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$42,524,556)
2021	(\$57,289,639)
2022	(\$67,013,739)
2023	(\$78,263,739)
2024	(\$67,763,739)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2019
2020	(\$42,524,556)	4.0
2021	(\$57,289,639)	5.0
2022	(\$67,013,739)	5.0
2023	(\$78,263,739)	5.0
2024	(\$67,763,739)	5.0

Fiscal Analysis

The bill would make multiple changes related to student assessments, including the following:

- Eliminating required assessments for writing in grades four and seven;
- Requiring students to be assessed in grades three through eight in language arts;
- Setting maximum time limits on assessments in grades three through eight and allowing parts of assessments to be administered over more than one day;
- Requiring the Texas Education Agency (TEA) to develop interim assessments;
- Requiring the transition to electronic assessments.

The bill would authorize TEA to use Foundation School Program funds to implement the bill's provisions.

Methodology

The bill would require TEA to develop a reading instrument that would test developmental skills, including literacy. According to TEA, the cost of developing and maintaining the assessment would total \$4.9 million in fiscal year 2020 and \$2.0 million in subsequent fiscal years.

According to the agency, the cost of developing a language arts assessment and administering the test would be approximately \$4.0 million in fiscal year 2020, \$15.0 million in fiscal year 2021, \$25.0 million in fiscal year 2022, and \$24.0 million in subsequent fiscal years. This would be partially offset by cost savings of \$5.1 million related to eliminating the grades four and seven writing assessment.

According to the agency, provisions related allowing tests to be administered over more than one day would cost \$4.0 million in fiscal year 2020 and \$5.0 million in subsequent fiscal years. According to the agency, the cost of developing and administering interim assessments would total \$10.0 million in fiscal years 2020, 2021, and 2022, with costs declining to \$7.0 million in subsequent fiscal years. The cost of implementing formative assessments would total \$5.7 million in fiscal year 2020, \$10.5 million in fiscal year 2021, \$10.0 million in fiscal year 2022, and \$10.5 million in fiscal year 2023.

According to the agency, the agency would have to begin item development related to the limit on multiple choice items in fiscal year 2020. The agency estimates that it would cost \$3.5 million

each to begin developing reading language arts items and science items, \$5 million to begin developing math items, and \$1 million to begin developing social studies items. The total to develop items in fiscal year 2020 would be \$13 million.

The agency estimates a cost of \$250,000 to conduct a feasibility study regarding the impact to school districts of the implementation of electronic administration of all assessment instruments and \$250,000 to provide technology migration support to begin preparation for electronic assessment administration.

According to TEA, the agency would be required to develop additional items to provide districts with multiple opportunities to deliver shorter assessments. Costs associated with these requirements would total \$4.0 million in fiscal year 2020 and \$5.0 million in fiscal year 2021.

The agency would require \$65,700 in fiscal year 2020, \$43,800 in fiscal year 2021, and \$21,900 in fiscal year 2022 to support a new educator advisory committee established by the bill.

According to the agency, the cost of supporting the electronic administration of assessments would be \$500,000 in fiscal year 2020 and \$250,000 in subsequent fiscal years.

The bill requires the agency to submit a report to the Governor and the Legislature related to the readability of state assessments. According to the agency, the cost of contracting for such a study, as required by the bill, would total \$250,000 in fiscal year 2021.

The agency would require 4.0 additional FTEs in fiscal year 2020 and 5.0 FTEs in subsequent fiscal years to implement the bill. The cost of these FTEs would total \$0.9 million in the 2020-2021 biennium.

Local Government Impact

No significant fiscal implication to school districts and charter schools is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: WP, CPa, AM, THo, HL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 17, 2019

TO: Honorable Larry Taylor, Chair, Senate Committee on Education

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB3906** by Huberty (Relating to the assessment of public school development, comprehension, and performance, including the administration of assessment instruments for that purpose.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3906, Committee Report 2nd House, Substituted: a negative impact of (\$99,814,195) through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$42,524,556)
2021	(\$57,289,639)
2022	(\$67,013,739)
2023	(\$78,263,739)
2024	(\$67,763,739)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2019
2020	(\$42,524,556)	4.0
2021	(\$57,289,639)	5.0
2022	(\$67,013,739)	5.0
2023	(\$78,263,739)	5.0
2024	(\$67,763,739)	5.0

Fiscal Analysis

The bill would make multiple changes related to student assessments, including the following:

- Eliminating required assessments for writing in grades four and seven;
- Requiring students to be assessed in grades three through eight in language arts;
- Setting maximum time limits on assessments in grades three through eight and allowing parts of assessments to be administered over more than one day;
- Requiring the Texas Education Agency to develop interim assessments;
- Requiring the transition to electronic assessments.

Methodology

The bill would require TEA to develop a reading instrument that would test developmental skills, including literacy. According to TEA, the cost of developing and maintaining the assessment would total \$4.9 million in fiscal year 2020 and \$2.0 million in subsequent fiscal years.

According to the agency, the cost of developing a language arts assessment and administering the test would be approximately \$4.0 million in fiscal year 2020, \$15.0 million in fiscal year 2021, \$25.0 million in fiscal year 2022, and \$24.0 million in subsequent fiscal years. This would be partially offset by cost savings of \$5.1 million related to eliminating the grades four and seven writing assessment.

According to the agency, provisions related allowing tests to be administered over more than one day would cost \$4.0 million in fiscal year 2020 and \$5.0 million in subsequent fiscal years.

According to the agency, the cost of developing and administering interim assessments would total \$10.0 million in fiscal years 2020, 2021, and 2022, with costs declining to \$7.0 million in subsequent fiscal years. The cost of implementing formative assessments would total \$5.7 million in fiscal year 2020, \$10.5 million in fiscal year 2021, \$10.0 million in fiscal year 2022, and \$10.5 million in fiscal year 2023.

According to the agency, the agency would have to begin item development related to the limit on multiple choice items in fiscal year 2020. The agency estimates that it would cost \$3.5 million each to begin developing reading language arts items and science items, \$5 million to begin developing math items, and \$1 million to begin developing social studies items. The total to develop items in fiscal year 2020 would be \$13 million.

The agency estimates a cost of \$250,000 to conduct a feasibility study regarding the impact to school districts of the implementation of electronic administration of all assessment instruments and \$250,000 to provide technology migration support to begin preparation for electronic assessment administration.

According to TEA, the agency would be required to develop additional items to provide districts with multiple opportunities to deliver shorter assessments. Costs associated with these requirements would total \$4.0 million in fiscal year 2020 and \$5.0 million in fiscal year 2021.

The agency would require \$65,700 in fiscal year 2020, \$43,800 in fiscal year 2021, and \$21,900 in fiscal year 2022 to support a new educator advisory committee established by the bill.

According to the agency, the cost of supporting the electronic administration of assessments would be \$500,000 in fiscal year 2020 and \$250,000 in subsequent fiscal years.

The bill requires the agency to submit a report to the Governor and the Legislature related to the readability of state assessments. According to the agency, the cost of contracting for such a study, as required by the bill, would total \$250,000 in fiscal year 2021.

The agency would require 4.0 additional FTEs in fiscal year 2020 and 5.0 FTEs in subsequent fiscal years to implement the bill. The cost of these FTEs would total \$0.9 million in the 2020-2021 biennium.

Local Government Impact

No significant fiscal implication to school districts and charter schools is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: WP, HL, AM, THo

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 13, 2019

TO: Honorable Larry Taylor, Chair, Senate Committee on Education

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB3906** by Huberty (Relating to the administration of assessment instruments used to assess the performance of public school students.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3906, As Engrossed: a negative impact of (\$9,000,000) through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$4,000,000)
2021	(\$5,000,000)
2022	(\$5,000,000)
2023	(\$5,000,000)
2024	(\$5,000,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1
2020	(\$4,000,000)
2021	(\$5,000,000)
2022	(\$5,000,000)
2023	(\$5,000,000)
2024	(\$5,000,000)

Fiscal Analysis

The bill would require that, for assessment instruments administered to students in grade three through five, 85 percent of students would have to be able to complete all assessment instruments for that grade within an aggregate period equal to the number of assessment instruments for that

grade multiplied by 120 minutes. For assessment instruments administered to students in grade six through eight, 85 percent of students would have to be able to complete all assessment instruments for that grade within an aggregate period equal to the number of assessment instruments for that grade multiplied by 180 minutes. The bill would also allow administration of assessment instruments to occur in multiple parts over more than one day, with certain exceptions.

The bill would apply beginning with the 2019-2020 school year. The bill would take immediate effect if it receives a two-thirds vote in each house of the Legislature. Otherwise, the bill would take effect September 1, 2019.

Methodology

The bill would require TEA to develop shorter assessments that could be administered over multiple days. In order to facilitate this implementation, TEA would need to develop additional items in order to provide districts with multiple opportunities to administer shorter assessments. According to the agency, this would require require \$4.0 million in fiscal year 2020 and \$2.0 million in subsequent fiscal years for item development. The agency reports that starting in fiscal year 2021 it would require \$1 million for test construction related to the new test design of multiple shorter assessments and \$2 million annually for operational administration of the larger number of shorter assessments. These costs would in part be attributable to the need to develop more questions tied to each standard to enable more administrations of shorter tests. More versions of each assessment would have to be developed, in order to ensure security of questions and answers on tests administered on different days.

Local Government Impact

No significant fiscal implication to school districts or charter schools is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: WP, HL, AM, THo

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 22, 2019

TO: Honorable Dan Huberty, Chair, House Committee on Public Education

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3906 by Huberty (Relating to the administration of assessment instruments used to assess the performance of public school students.), Committee Report 1st House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for HB3906, Committee Report 1st House, Substituted: a negative impact of (\$9,000,000) through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$4,000,000)
2021	(\$5,000,000)
2022	(\$5,000,000)
2023	(\$5,000,000)
2024	(\$5,000,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund
	1
2020	(\$4,000,000)
2021	(\$5,000,000)
2022	(\$5,000,000)
2023	(\$5,000,000)
2024	(\$5,000,000)

Fiscal Analysis

The bill would require that, for assessment instruments administered to students in grade three

through five, 85 percent of students would have to be able to complete all assessment instruments for that grade within an aggregate period equal to the number of assessment instruments for that grade multiplied by 120 minutes. For assessment instruments administered to students in grade six through eight, 85 percent of students would have to be able to complete all assessment instruments for that grade within an aggregate period equal to the number of assessment instruments for that grade multiplied by 180 minutes. The bill would also allow administration of assessment instruments to occur in multiple parts over more than one day, with certain exceptions.

The bill would apply beginning with the 2019-2020 school year. The bill would take immediate effect if it receives a two-thirds vote in each house of the Legislature. Otherwise, the bill would take effect September 1, 2019.

Methodology

The bill would require TEA to develop shorter assessments that could be administered over multiple days. In order to facilitate this implementation, TEA would need to develop additional items in order to provide districts with multiple opportunities to administer shorter assessments. According to the agency, this would require require \$4.0 million in fiscal year 2020 and \$2.0 million in subsequent fiscal years for item development. The agency reports that starting in fiscal year 2021 it would require \$1 million for test construction related to the new test design of multiple shorter assessments and \$2 million annually for operational administration of the larger number of shorter assessments. These costs would in part be attributable to the need to develop more questions tied to each standard to enable more administrations of shorter tests. More versions of each assessment would have to be developed, in order to ensure security of questions and answers on tests administered on different days.

Local Government Impact

No significant fiscal implication to school districts or charter schools is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: WP, HL, AM, THo

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 16, 2019

TO: Honorable Dan Huberty, Chair, House Committee on Public Education

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3906 by Huberty (Relating to the adoption and administration of assessment instruments used to assess the performance of public school students.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB3906, As Introduced: a negative impact of (\$56,400,858) through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$29,204,429)
2021	(\$27,196,429)
2022	(\$27,196,429)
2023	(\$27,196,429)
2024	(\$27,196,429)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2019
2020	(\$29,204,429)	2.0
2021	(\$27,196,429)	2.0
2022	(\$27,196,429)	2.0
2023	(\$27,196,429)	2.0
2024	(\$27,196,429)	2.0

Fiscal Analysis

The bill would require a language arts assessment for public school students annually in grades three through eight. This assessment would include both reading and writing. Under current law, a reading assessment is required annually in grades three through eight, while a writing assessment

is required in grades four and seven. The bill would allow the Commissioner of Education to designate sections of mathematics assessment in grades three through eight that may be completed with the aid of technology.

For assessment instruments administered to students in grade three through five, 85 percent of students would have to be able to complete all assessment instruments for that grade within an aggregate period equal to the number of assessment instruments for that grade multiplied by 120 minutes. For assessment instruments administered to students in grade six through eight, 85 percent of students would have to be able to all assessment instruments for that grade within an aggregate period equal to the number of assessment instruments for that grade multiplied by 180 minutes. The bill would also allow administration of assessment instruments to occur in multiple parts over more than one day, with certain exceptions.

The bill would apply beginning with the 2019-2020 school year. The bill would take immediate effect if it receives a two-thirds vote in each house of the Legislature. Otherwise, the bill would take effect September 1, 2019.

Methodology

According to the Texas Education Agency (TEA), the cost to assess writing as part of a language arts assessment in grades three, five, six, and eight would total \$5.0 million for each grade. The additional cost for Spanish assessments in grades three and five would be \$1.0 million in each grade. These costs would recur each fiscal year.

The bill would require TEA to develop shorter assessments that could be administered over multiple days. In order to facilitate this implementation, TEA would need to develop additional items in order to provide districts with multiple opportunities to administer shorter assessments. According to the agency, this would require require \$4.0 million in fiscal year 2020 and \$2.0 million in subsequent fiscal years for item development. The agency reports that it would also require \$1 million for test construction related to the new test design of multiple shorter assessments and \$2 million annually for operational administration of the larger number of shorter assessments. These costs would in part be attributable to the need to develop more questions tied to each standard to enable more administrations of shorter tests. More versions of each assessment would have to be developed, in order to ensure security of questions and answers on tests administered on different days.

Finally, this analysis assumes that 2.0 FTEs would be required to oversee development and administration of additional writing portions of the assessments. Costs associated with these FTEs, including salary and benefits, would total \$400,858 for the 2020-21 biennium.

Local Government Impact

No significant fiscal implication to school districts or charter schools is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: WP, HL, AM, THo